



4/21/08

IN THE UNITED STATES PATENT AND  
TRADEMARK OFFICE

In re the Application of:

Eric R. Noel

Serial No. 10/683,672

Filed: 10/09/2003

For: SYSTEM AND METHOD FOR MEAL DISTRIBUTION AND DIETARY  
ATTENTION

Art Unit 3626  
Examiner: L. Najarian

RESPONSE UNDER 37 CFR §1.111

Commissioner of Patents & Trademarks  
Arlington, Virginia

Commissioner:

In response to the official action dated February 5, 2008, applicant hereby responds as follows:

*Restriction Requirement*

The examiner stated in the above referenced action that claims 1-32 are subject to restriction and/or election requirement. Specifically, the examiner takes the position that two distinct inventions are claimed in the present application:


- I. An automated method of taking and fulfilling patient meal orders at an institution, classified in class 705, subclass 2; and
- II. An automated system for monitoring the dietary intake status of a patient at an institution, classified in class 128, subclass 921.

*Provisional Election with Traverse*

Group I is provisionally elected with traverse. The restriction requirement is submitted to be improper because there are generic claims drawn to both technologies which are subcombinations of the single invention claimed in the application. The examiner states that these subcombinations do not overlap in scope. Applicant respectfully disagrees.

CERTIFICATE OF MAILING (37 CFR § 1.8)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Alexandria, VA 22313-1450, on the following date of deposit: May 1, 2008

 5-1-2008  
Certifier Date

Groups I and II overlap in scope because, in generic claims, the technologies of subcombinations interact. The present invention, in its most generic sense, is an integrated system for providing the interrelated functions of preparing meal orders for patients and tracking the patients' dietary intake. Specifically, data concerning the meal orders that are taken and fulfilled using the technology of subcombination I is used to monitor the dietary intake status of the patient in subcombination II. Conversely, data concerning the dietary intake status of the patient in subcombination II is used to create patient meal orders under the technology of subcombination I. See, for example, claim 5, wherein the taking of a patient's meal order (subcombination I) comprises monitoring incremental contributions of meal order selections to the patient's accumulation of dietary constituents (subcombination II). In short, because what a patient is fed is intimately related to diet management for the patient, the groups overlap. Because groups I and II overlap in scope, applicant submits that the restriction requirement is improper, MPEP 806.05(d), and respectfully requests that the requirement be withdrawn upon reconsideration.

#### *Regrouping of Claims*

If the restriction requirement is not withdrawn, applicant requests a regrouping of claims. Specifically applicant requests the following regrouping:

	<b>02/05/2008 Office Action</b>	<b>Proposed regrouping</b>
<b>Group I</b>	Claims 1-11, 28-32	Claims 1-11, 18-26, 28-32
<b>Group II</b>	Claims 12-27	Claims 12-17, 27

Applicant submits that claims 18-26 should properly be included in Group I because all of these claims include elements for taking and/or fulfilling patient meal orders at an institution.